

PLAN OF IMPLEMENTATION
OF THE
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
PURSUANT TO THE JURY SELECTION AND SERVICE ACT OF 1968

As Amended and Approved
by the Judicial Council
March 9, 1979

Revised March 25, 1985 and
Approved by the Third Circuit
Judicial Council April 1, 1985

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Approved by the Third Circuit
Judicial Council January 31, 2003

PREAMBLE

Pursuant to Title 28 U.S.C. §§ 1861, et seq., the Jury Selection and Service Act of 1968, there is hereby adopted by the United States District Court for the District of New Jersey this Plan of Implementation in order to ensure a random selection of grand and petit jurors from a fair cross section of the population within the jurisdiction of the District of New Jersey.

A. APPLICABILITY OF PLAN

(1) The District of New Jersey is hereby divided into divisions for jury selection purposes, pursuant to Title 28 U.S.C. §1869(e), as follows:

- (a) CAMDEN division, consisting of the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester and Salem;
- (b) NEWARK division, consisting of the counties of Bergen, Essex, Hudson, Middlesex, Morris, Passaic, Sussex and Union; and
- (c) TRENTON division, consisting of the counties of Hunterdon, Mercer, Monmouth, Ocean, Somerset and Warren.

(2) Provisions of this Plan apply to all such specially created divisions in this District unless specifically indicated otherwise.

B. MANAGEMENT AND SUPERVISION OF JURY SELECTION PROCESS

(1) The jury selection process shall be managed by the Clerk of the Court. The Clerk shall act under the supervision and control of the Chief Judge.

(2) In the absence of or vacancy in the position of Chief Judge, any act to be performed only by the Chief Judge may be performed by the active Judge senior in commission.

(3) In the absence of any Judge at a division designated to perform any act pursuant to this Plan, any Judge of the Court may perform such act.

(4) Any act to be performed by the Clerk pursuant to the Plan may be performed by any Deputy Clerk.

C. INITIAL SELECTION OF NAMES FOR THE MASTER JURY WHEEL

(1) Source Lists

(a) Each county in New Jersey has a list of registered voters for each election district. If a county also has a listing of all licensed motor vehicle drivers, filers of state gross income tax returns and filers of Homestead rebate application forms from which list the names of registered voters may be purged, that list shall be merged with the voters list into a single consolidated list. These lists may be contained in various electronic formats.

(b) Whenever a determination has been made regarding the total number of names to be selected for the master jury wheel, the Clerk shall ensure substantial proportionate representation from each county in a particular division by approximately limiting the number of names to be selected from each county to the same percentage that the total number of names contained on that county's list of registered voters bears to the total number of registered voters in all counties in said division.

(c) Names of prospective grand or petit jurors shall be selected at random from the lists of registered voters and, if available, licenced drivers of motor vehicles, filers of state gross income tax returns and filers of Homestead rebate application forms of each of the counties allocated to the three divisions as set forth above.

(2) Master Jury Wheels

(a) At each division, the Clerk shall maintain a master jury wheel and all records pertaining thereto.

(b) The master wheel, into which all names and addresses of those randomly selected from the consolidated lists are to be placed, may be electronic data storage devices, such as magnetic tapes or compact discs.

(c) The minimum number of names to be placed initially in the master jury wheels shall be as follows:

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|-----|-------------------|--------------|
| (1) | CAMDEN division: | 20,000 names |
| (2) | NEWARK division: | 40,000 names |
| (3) | TRENTON division: | 20,000 names |

(d) The Chief Judge at the division where he or she is stationed, or the active Judge senior in commission stationed at the other divisions, may order additional names to be placed in the master jury wheels from time to time as necessary.

(e) The initial master jury wheels shall be emptied and refilled in nine (9) months after the General Election held during November 2000 and every two (2) years thereafter. In all re-fillings, the Clerk shall use the most current available data.

(3) Manner of Selection

(a) Determining a "Quotient"

After ascertaining the total number of names contained on the voter registration lists for all counties in a division, the Clerk will divide that number by the number of names needed for the master jury wheel. The result is referred to herein as the "quotient." The quotient is the ratio of selected to unselected names. For example, if the

Clerk should determine that to supply the Court's jury requirements for two (2) years he or she will need 20,000 names in the master wheel, and if there are a total of 2,200,000 names on the voters registration lists, the "quotient" to be used would be 20,000 divided into 2,200,000 or 110, and the Clerk would therefore take every 110th name from the consolidated lists for the master wheel.

(b) Determining a "Starting Number"

After determining the "quotient," the Clerk shall establish a "starting number." This number will locate the first name to be selected from the consolidated lists. After providing notice, the "starting number" will be manually drawn by lot from numbered cards placed in a jury drum or box. Cards used for this drawing should begin with a card containing number one and end with a card containing the same number as the "quotient." As an example of how both the "starting number" and "quotient" are used, if we suppose the "quotient" to be 110 and the "starting number" drawn turned out to be 14, the first name chosen for each county would be the 14th name from its consolidated lists, the second name would be the 124th, the third the 234th, etc., up to the end of the list.

(4) Selecting the Names by Automated Data Processing Methods

The Judges of the Court find that electronic data processing methods can be used advantageously for selecting names from the consolidated lists. Therefore, a properly programmed electronic data processing system may be used to select names from the lists of any or all counties in the District, provided that the required proportions of names for each county are maintained and that the above described "quotient" and "starting number" formula are followed.

If the Court elects to use data processing systems, the selection system shall be planned and programmed to achieve random selection as described above. Where a data processing system selects the names, it must be programmed first to accept a specific instruction as to what “starting number” and “quotient” formula is to be used, and secondly, to perform a proportionately balanced selection and retrieval of names precisely according to that formula. The Clerk may utilize non-court personnel authorized by the Court to assist in the performance of functions such as creating both the master and qualified wheels.

(5) Alternative Selection of Names by Manual Methods

If the need arises to select names manually from the source lists, the choosing of names shall be by counting names down the list, either in a numerical sequence if the names are numbered or, if they are not numbered, in any other logical consistent sequence. For this counting and selecting process, the entire list must be covered and the specific names will be picked according to the established “quotient” and “starting number” formula described above.

D. DRAWING OF NAMES FROM MASTER JURY WHEEL TO SELECT JURORS FOR THE QUALIFIED JUROR WHEEL

(1) The Clerk shall, from time to time as directed by the Court, publicly draw at random from the master jury wheels, utilizing a properly programmed electronic data processing system for pure randomized selection, the names of as many persons as it is determined are required to maintain the qualified juror wheels in sufficient numbers for use in drawing jury pools.

(2) The Clerk may prepare and maintain in alphabetical order a list of the names drawn from the master jury wheel. This list may be in the form of index cards or in any electronic data storage device, magnetic tapes or compact discs.

(3) The Clerk shall mail to every person whose name is drawn from the master jury wheel a juror qualification form accompanied by instructions to fill out and return the form, duly signed and sworn, to the Clerk by mail within ten (10) days.

(4) In any case in which it appears that there is an omission, ambiguity, or error in a form, the Clerk shall return the form with instructions to the person to make such additions or corrections as may be necessary and to return the form to the Clerk within ten (10) days.

(5) Whenever a person fails to return a completed juror qualification form as instructed, the Clerk may issue a summons requiring the person to appear at his office to fill out the juror qualification form.

(6) If a person fails to appear in response to a summons, such fact shall be noted, and transmitted to the Court.

(7) If a person to whom the questionnaire is sent is unable to complete it, another person shall complete it and indicate on the questionnaire why such action was necessary.

E. QUALIFICATIONS FOR JURY SERVICE

(1) Pursuant to 28 U.S.C. § 1865, the Clerk, upon authorization from the Chief Judge of this Court, and under the supervision of the Court, shall determine solely on the basis of information provided on the juror qualification form and other competent evidence whether a person is qualified, unqualified, exempt or may be excused from jury service.

(2) In making his or her determination the Clerk, under supervision of the Court, shall deem any person qualified to serve on grand or petit juries in the District Court unless the respondent:

- (a) Is not a citizen of the United States, at least eighteen (18) years old or older who has resided for a period of one (1) year within the judicial district;
- (b) Is unable to read, write, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily the juror qualification form;
- (c) Is unable to speak the English language;
- (d) Is incapable, by reason of mental or physical infirmity, to render satisfactory jury service; or
- (e) Has a charge pending against him or her for the commission of, or has been convicted in a State or Federal Court of a crime punishable by imprisonment for more than one (1) year and his or her civil rights have not been restored.

(3) If the Clerk, under supervision of the Court, determines that a person is disqualified, excused, exempt or excluded from jury service, he or she shall note same on the juror qualification form.

(4) At the time of his or her appearance for jury service, any person may be required to fill out another juror qualification form in the presence of the Clerk, at which time, in such case as it appears warranted, the person may be questioned, but only with regard to his or her responses to questions contained on the form. Any information thus acquired may be noted on the juror qualification form.

F. EXCUSED OR EXEMPT JURORS

(1) Excused:

The District Court hereby finds that jury service by members of the following occupational classes or groups of persons would entail undue hardship or extreme inconvenience to the members thereof, and the excuse of such members will not be inconsistent with the Act and shall be granted only upon individual requests of the juror if he or she is either:

- (a) A person whose services are so essential to the operation of a business, commercial, or agricultural enterprise that said enterprise must close if such person were required to perform jury duty;
- (b) A person who has actual care and custody of a child or children under ten (10) years of age whose health and/or safety would be jeopardized by their absence for jury service, or a person who is essential to the care of aged or infirm persons;
- (c) Seventy-five (75) years of age or older;
- (d) A regularly licensed and practicing physician;
- (e) A person who has served within the past two (2) years as a grand or petit juror in the federal court immediately prior to being summoned for service;
- (f) A volunteer safety person (firefighter, rescue squad member) serving without compensation for a public agency.

(2) Exempt:

The following persons shall be barred from jury service on the grounds that they are exempt:

- (a) Members in active service in the Armed Forces of the United States;
- (b) Members of the fire or police departments of any state, and/or subdivision of a state;
- (c) "Public officers" in the executive, legislative or judicial branch of the Government of the United States, or any state, or subdivision of any state who are actively engaged in the performance of official duties. A "public officer" is a person who is either elected to public office or who is directly appointed by a person elected to public office.

(3) Except as provided above, any person may be excused temporarily by the Court or by the Clerk and authorized deputies upon a showing of undue hardship or extreme inconvenience. The period of time for which such prospective juror may be excused shall be the period of time which the Judge or Clerk deems necessary under the circumstances. At the conclusion of such period, such person shall be summoned again for jury service, as provided in 28 U.S.C. § 1866(c).

G. QUALIFIED JUROR WHEEL

(1) At each division, the Clerk shall maintain a qualified juror wheel and all records pertaining thereto.

(2) The qualified juror wheel may consist of a revolving drum, drawers or file cabinets or electronic data storage devices, such as magnetic tapes or compact discs.

(3) At any drawing of a petit or grand jury pool, the qualified juror wheel shall contain a minimum of 300 names.

H. SELECTION AND SUMMONING OF JURY POOLS

(1) The Clerk shall publicly draw at random, from the qualified juror wheels, lists of petit jurors for such pools as the business of the Court requires without special direction of the Court.

- (a) In the event that the qualified juror wheel is maintained in a revolving drum containing the names of qualified jurors, selections shall be made publicly by the Clerk, manually, at random from said drum;
- (b) In the event that the qualified juror wheel is maintained in file cabinet drawers, consisting of cards containing the names of qualified jurors, selections shall be made publicly by the Clerk, manually, from said drawers by uniformly selecting a card approximately every two (2) inches;

- (c) In the event that the qualified juror wheel is maintained in any electronic storage device, such as magnetic tapes or magnetic discs, selections shall be made publicly by the Clerk at random through the use of a properly programmed electronic data processing system for pure randomized selection either at the Court or at a data processing center under contract to the Court.

(2) The Clerk or the data processing center shall prepare a list of names of persons drawn for such pools.

(3) Regular grand jury pools for each division are to be drawn only at the direction of the Chief Judge.

(4) The Clerk shall publicly draw grand jury pools at random from the qualified juror wheels of each division by drawing a minimum of fifty (50) names. After the names of those newly shown to be unqualified, exempted or excused has been deleted, the first twenty-three (23) names remaining on the list shall constitute the grand jury. The Court shall designate a foreperson and deputy foreperson of said jury.

(5) A special grand jury is to be drawn only at the direction of the Chief Judge.

(6) A juror shall not be required to serve more than once as either a grand or petit juror during any two (2) year period. A petit juror shall not be required to serve or attend court for prospective service for a total of more than thirty (30) days during any two (2) year period, except when necessary to complete service in a particular case.

(7) Any person summoned for jury service may be excluded by the Court:

- (a) On the ground that such person may be unable to render impartial jury service or that his/her service as a juror would be likely to disrupt the proceedings;
- (b) Upon peremptory challenge as provided by law;
- (c) Pursuant to the procedure specified by law upon a challenge by any party for good cause shown; or

- (d) Upon determination by the judge, in open court, that his or her service as a juror would be likely to threaten the secrecy of the proceedings, or otherwise adversely affect the integrity of jury deliberations, and that exclusion of such person will not be inconsistent with the policy of 28 U.S.C. §§ 1861 and 1862, provided, however, that the name of any person so excluded shall be forwarded by the Clerk immediately to the Judicial Council of the United States Court of Appeals for the Third Circuit together with the Court's detailed explanation for the exclusion, as provided in 28 U.S.C. § 1866(c)(5).

I. DISCLOSURE OF NAMES OF JURORS

The names of petit jurors drawn from the qualified juror wheel shall be made available to the parties and to the public within ten (10) days after they are summoned for service, unless otherwise ordered by the Court. The names of grand jurors drawn from the qualified juror wheel shall remain confidential unless, by formal motion to the Chief Judge on notice to the United States Attorney, a person establishes by clear and convincing evidence that: (a) there is an actual and particularized need that justifies disclosure of the names of grand jurors and (b) disclosure is in the interests of justice.

J. ASSIGNMENT OF PETIT JURORS

In each division where more than one (1) Judge is engaged in jury trials, there shall be a petit jury pool for the use of the Judges. The Clerk may direct the entire pool or a portion thereof to a particular trial. If a portion is selected, there shall be a random, publicly-drawn selection from the entire pool available and in such numbers as are required.

K. MAINTENANCE, INSPECTION AND DISCLOSURE OF RECORDS

(1) After the master wheel is emptied and refilled pursuant to Section C of this Plan, and after all persons selected to serve as jurors before it was emptied have completed such service, all records and papers compiled and maintained by the Clerk before it was emptied shall be preserved in the custody of the Clerk for four (4) years and shall be available for public inspection for the purpose of determining the validity of the selection of any jury.

(2) When a demand is made on the Clerk pursuant to §1867(d) and (f) and §1868 of Title 28 for an inspection or permission to reproduce and copy the contents of records or papers used in connection with the jury selection process, the Clerk may refer such a request to the Chief Judge or the active Judge senior in commission at the division where the request was made if, in his or her opinion, the demand is not made in the preparation or presentation of a motion, or is not made by one with a proper interest in determining the validity of the selection of any jury.

L. RULES AND REPORTS

(1) The Court shall adopt and promulgate such rules and regulations governing the operation of this Plan, as may be issued by the Judicial Conference of the United States.

(2) Under the supervision and direction of the Court, the Clerk shall submit appropriate reports to the Administrative Office of the United States Courts, which reports shall be in such form as shall be prescribed from time to time by the Administrative Office, and as may be required by the Judicial Conference of the United States.

M. FORMS

Any and all references made in this Plan to forms shall be deemed to refer to standard forms to be prepared and provided by the Administrative Office of the United States Courts, and to no others, unless specific provision is made therefor.

N. RULES OF CONSTRUCTION

(1) It shall be the policy and practice of this Court to construe and apply this Plan of Implementation (including such modifications thereof as may be made from time to time by the Court or the review panel) consistent with the purposes and provisions of the Jury Selection and Service Act of 1968.

(2) Situations and circumstances not addressed by the foregoing Plan shall be governed and controlled by the Jury Selection and Service Act of 1968.